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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 12/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/754,118

Applicant(s)

NEULEIB, MARLO DONALD

Examiner

Chi Q Nguyen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 06.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Examiner would like to apologize for misused the US Patent Publication in last office action.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claim 12, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8, 11-13,16,18,and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Matich (US 2,708,543).

Matich shows in figs. 1, 3 rubber grip roof ladder comprising a connecting material 12, a plurality of steps 26 attached to the connecting material 12 and the steps 26 being parallel, spaced apart by a distance, the steps 26 having toehold positions 34, handle 54, lifeline 80.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matich (US 2,708,543), in view of Crookham (US 6,464,196).

Matich disclosed the structural elements for the step system as stated.

Matich does not disclose expressly the step system comprises ruler demarcations along one edge. Crookham teaches apparatus for temporary spread footing including transverse members 56, 58, 48, and 16 with marking ruler demarcations. At the time of the invention, it would have been obvious to a person of ordinary skill in the art modify Matich step system with Crookham's for the marking of ruler demarcations on one edge. The motivation for doing so would have been to provide more accurate adjusting the steps along the roof.

With regards to the claim 9, Matich teaches the structural elements for the step system including the lifeline 80. Matich does not specifically teach the lifeline attachable to the handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the lifeline to the handle, since it has been held that rearranging parts of an invention involves only routine skill in the art.

7. Claims 2-7, 10, 17, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matich (US 2,708,543).

Match teaches the structural elements for the step system except for the steps are spaced apart by approximately 20-36", the connecting material is approximately 10-36" wide, and is nylon 6000 pound seat belt webbing, 1,000 denier, closed material, high impact plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the specific dimension for the steps, the connecting material, since it has been held to be within the general skill of a worker in the art to select a known material and cutting down to the desirable dimensions on the basis of its suitability for the intended use as a matter of obvious design choice.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Match (US 2,708,543) in view of DE 3719969.

Match discloses the structural elements for the step system as stated.

Match does not disclose expressly the step system having a keyhole-shaped sleeve for passage of a fastener.

DE 3719969 teaches the step system including a plurality of steps 4 having a plurality of keyhole-shaped sleeve 5 for passage of a fastener as shown in fig. 1. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the Match's step system with DE's teaching for the keyholes for fasteners. The motivation for doing so would have been to provide more securement for the steps to the connecting element.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Alexander (D440, 672), Collavino (US 6,092,623), Farrell (US

Art Unit: 3637

5,099,952), Hartman (US 6,158,549), Smith (US 5,180,031), Alderman (US 6,401,426), Thornton (US 5,896,719), Kinder (US 4,928,929), UK 2190420, 2182087, DE 4135738, JP 6-101312.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Lanna Mai can be reached at (703) 308-2486. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

*Chi Nguyen*

CQN

11/20/02

*Jose V. Chen*  
**JOSE V. CHEN**  
**PRIMARY EXAMINER**